



December 22, 2011

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Lifeline and Link-Up Modernization, WC Docket No. 11-42; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On Wednesday, December 21, 2011, Jill Canfield and the undersigned on behalf of the National Telecommunications Cooperative Association (“NTCA”) met with Garnett Hanly of the Wireline Competition Bureau to discuss matters in the above-referenced proceedings.

NTCA began by discussing its concerns with respect to rampant growth in the Low-Income program, which as detailed in a recent *ex parte* regarding universal service fund (“USF”) contributions, has increased by 41% (or \$154 million) over the course of 2011 alone, and by more than 116% (or \$709 million) between 2005 and 2010. *See Ex Parte* Presentation of NTCA, WC Docket Nos. 10-90, 07-135, 06-122, and 05-337; GN Docket No. 09-51; CC Docket No. 96-45 (filed Dec. 19, 2011), at slides 5-6. NTCA expressed support for clearer rules and reasonably crafted and well-tailored controls on increases in Low-Income support and potential abuse and waste in that program. *See* Letter from Sen. Claire McCaskill to Chairman Genachowski (dated Dec. 9, 2011).

NTCA noted that the adoption of a strict “one-per-household” limit on the availability of Lifeline support would be consistent with the fundamental purpose of the program – that is, to enable an essential connection for a low-income consumer who is otherwise unable to obtain access to telecommunications. One commenter has cited specific circumstances in given serving areas as cause for adoption instead of a “one-per-eligible-adult rule.” *See* Letter from John Nakahata, Counsel for GCI, to Marlene Dortch, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45 (filed Nov. 23, 2011), at 2. But there is no reason to base a rule of general applicability on unique circumstances that may be faced in specific serving areas. Rather, much like its waiver-based approach to many questions in the context of recent reforms of high-cost USF support, the Federal Communications Commission (the “Commission”) could always allow providers who believe they serve areas of such special interest to request a waiver of the “one-per-household” limit for the relevant area(s), and thereby examine whether the circumstances in that given instance warrant a more relaxed “one-per-eligible adult” rule.

NTCA expressed support for basing the availability of Link-Up support on actual costs incurred. Although some providers may attempt to justify obtaining Link-Up as a matter of “revenue replacement,” it is not clear why such replacement would be justified where there is no indication of sunk costs – or, indeed, the incurrence of any costs – against which those revenues would apply. Particularly in the case of wireless service activations, it is unclear what costs would justify such support, as compared to “truck rolls” or other forms of service installation and activation that involve significant labor or other effort. On the other hand, eliminating the ability to obtain Link-Up support altogether could leave a provider who incurs real costs to install and activate discounted service without adequate recovery for such costs. The Commission should therefore base the ability to obtain Link-Up support on a demonstration of actual costs, and preclude recovery of Link-Up support absent such a showing.

NTCA has previously expressed support for the establishment of a robust national database that would help to eliminate duplicative provision of discounted supported services to a given consumer. NTCA also supports strong, well-tailored steps to ensure that carriers are taking reasonable steps to obtain certifications and verify the eligibility of customers. For the time being however, in the context of pending reforms, NTCA urged the Commission to refrain from imposing new obligations with respect to carrier certification and consumer eligibility documentation. In the alternative and at a minimum, consistent with the Regulatory Flexibility Act, 5 USC §§ 601 *et seq.*, the Commission must take account of the burdens that enhancements to existing requirements would impose on smaller carriers who do not maintain the workforces or have the resources of larger national or regional providers.

NTCA further raised concerns with respect to subsidizing non-facilities-based providers through the Lifeline program. Although competition may be a desirable policy outcome, Lifeline’s fundamental purpose and funding resources should be aimed at ensuring that low-income consumers can obtain essential telecommunications services at affordable rates. Moreover, the Communications Act and the Commission’s rules are clear with respect to the requirement that an eligible telecommunications carrier must maintain its own facilities.

Finally, NTCA expressed its continuing interest in a trial program to explore stimulation of broadband adoption among low-income consumers, but emphasized the importance of ensuring that any such pilot program could be supported without diverting funds from other key universal service initiatives. NTCA also discussed how to promote the involvement of small rural carriers to ensure that a truly representative sample of low-income consumers nationwide would be captured in any pilot program. NTCA urged the Commission to be flexible, however, with respect to mandating certain requirements, such as connections to community anchor institutions and partnerships for digital literacy, as part of any pilot program. These objectives could be harder to implement and achieve in rural areas where there may be few, if any, libraries or other community resources able to assist in these efforts.

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Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

cc: Garnett Hanly